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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,211	01/20/2004	Jacques Quellais	P24660	8075

7055 7590 12/17/2004

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RESTON, VA 20191

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,211

Applicant(s)

QUELLAIS ET AL.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7-10,12-15 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,11,16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/5/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 2 (Figures 4-11) in the reply filed on November 22, 2004 is acknowledged.
2. Claims 4, 5, 7-10, 12-15 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 22, 2004.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. **Claims 1-3, 6, 11, 16, and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In claim 1, lines 9-10, the phrase "a flexible linkage connected to the elastic member to be directly or indirectly to the boot.." is indefinite and

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unclear. Examiner assumes that phrase should state that the flexible linkage is directly or indirectly connected to the boot.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-3,6, 16, 18 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Veux (US Patent 6,435,537 B2).** Veux discloses a device for binding a boot (10) to a sports article (1), said device comprising a retaining system (20) adapted to connect a front of the boot to the sports article and to allow a rear of the boot to be moved with respect to the sports article between a low position (See Fig. 3) and a high position (See Fig. 4); an elastic return system (40) for elastic return of the boot to the low position; the retaining system being distinct from the elastic return system; the elastic return system comprising at least an elastic member (38) connected to the sports article; and a flexible linkage (50) connected to the elastic member to be directly or indirectly to the boot, said flexible linkage cooperating with at least one return member (53); **[claim 2]** wherein the flexible linkage has, on a first side the return member, a portion connected to the elastic member and extending in a substantially horizontal direction (See Fig. 3), and on a second side of the return member, a portion connected to the boot and extending in a direction substantially parallel to a direction of relative movement of the boot in

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relation to the binding device; [claim 3] wherein the return member comprises a pulley; [claim 6] wherein the flexible linkage comprises a traction strip; [claim 16] further comprising a base (21) that is affixed to the sports article; and wherein the elastic member is connected to the sports article by means of the base; [claim 18] in addition to the elastic return system, a rigid or elastic abutment positioned to act at the end of the travel of the boot; [claim 21] wherein the return and the end of the flexible linkage that is connected to the boot are arranged at a short distance from one another; and [claim 22] wherein the end of the flexible linkage connected to the boot and the return are arranged in the vicinity of the metatarso-phalangeal articulation zone of the user's foot when the boot is in the low position.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Veux (US Patent 6,435,537 B2).** Veux discloses the device for binding a boot to a sports article as set forth above and wherein the retaining system comprises a jaw for articulating the boot in the manner of a hinge. However, the jaw disclosed in Veux does not disclose the jaw adapted to receive a rod of the boot. The jaw disclosed in Veux has a jaw adapted to receive the front sole of the boot. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to allow the jaw disclosed in Veux to be capable of receiving either the sole of the boot

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or a rod attached to the boot. The motivation for doing so would have been to allow the jaw to compatible with various boots.

10. **Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Veux (US Patent 6,435,537 B2) in view of Frechin (US Patent 4,079,962).** Veux discloses the device for binding a boot to a sports article as set forth above, but does a mechanism for adjusting the stiffness of the elastic member. Frechin discloses a mechanism (61) for adjusting the stiffness of the elastic member. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a mechanism for adjusting the stiffness of the elastic member disclosed in Veux in view of the teaching of Frechin. The motivation for doing so would have been to allow the tension required to raise the rear of the boot to be adjusted to suite various skiers.

Regarding claim 20, Frechin discloses wherein the mechanism for adjusting the stiffness allows adjusting a more or less substantial prestress of the elastic member.

Conclusion

11. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or

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relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

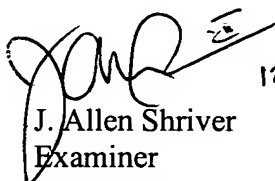
As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monday, December 13, 2004

 12/13/04
J. Allen Shriver
Examiner
Art Unit 3618

JAS